ARTICLES OF ACCUSATION,

EXHIBITED

By the Commons House of Parliament now assembled.

AGAINST

Sr. John Bramston *Knight*, Sr. Robert Berkley *Knight*, } *Justices of his Majesties Bench.*

Sr. Francis Crawley *Knight*, *one of the Justices of the Common-pleas.*

Sr. Humphrey Davenport *Knight*, Sr. Richard Weston *Knight*, and Sr. Thomas Trevor *Knight*, } *Barons of his Majesties Exchequer.*

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2 Chron. 19. 6, 7.

Jehosaphat *said to the Judges, Take heed what ye doe: for ye judge not for man, but for the Lord; wherefore let the feare of the Lord be upon you; for there is no iniquity with the Lord our God, nor taking of gifts.*

Printed in the yeare, 1641.

ARTICLES

OF

ACCUSATION

EXHIBITED

By the Commons House of Parliament

AGAINST

Articles of the House of Commons in the name of themselves, and all the Commons of England, against Sir Richard Weston Knight, one of the Barons of his Majesties Court of Exchequer, impeached by them as followeth.

1. THat the said Sir *Richard Weston* about the moneth of November, *Anno Domini* 1635. then being one of the Barons of his Majesties Court of Exchequer, and having taken an oath for the due Administration of Justice to his Majesties liege people, according to the Lawes and Statutes of this Realme, subscribed his name to an opinion *in hec verba*: I am of opinion, &c. *ut supra* in Sir *Robert Berkley's Charge*.

2. That in or about the moneth of February, *Anno Domini* 1636. the said Sir *Richard Weston* (being then one of the Barons of the said Court of Exchequer) subscribed an extraiudiciall opinion in answer to questions in a Letter from his Maiesty *in hec verba*:

Charles R. When the good and safety of the Kingdome in generall is concerned, &c. *ut supra*.

3 That the said Sir *Richard Weston* (being then one of the Barons of his Majesties Court of Exchequer) did deliver his opinion and iudgement in the Exchequer chamber against *John Hampden* Esquire in the Case of shipmoney, That he the said *John Hampden*, &c. as in Iudge *Crawley's charg*.

4. That whereas in the moneth of April 26. *Caroli*, the Officers of the Custome-house having seised a ship of one *Samuel Warner's* laden with Tabacco, being the goods of the said *Warner*, the bulke of the said ship not being broken, and no information exhibited for the King, according to the course of the Exchequer for any duty, the Barons were moved, that the said ship might be restored to the Proprietors, giving security to pay such duties as did belong to the King: But, upon the allegation of the Kings Attorney, that there needed no information, because there was no penalty, the said Sir *Richard Weston* (being then one of the Barons of his Majesties Court of Exchequer, together with the rest of the then Barons of the said Court) did (contrary to his oath, and contrary to the Lawes of this Realme) deny the restitution of the said ship, unlesse all the duties demanded by the Farmers of the Custome-house were first paid. Hereupon the said *Warner* brought an action of Trover upon the case in the Office of Pleas in the Exchequer against the said Officers that seised his ship and goods: Whereupon the Kings Attorney Generall exhibited an Information by English Bill in the Exchequer-chamber against the said

warner, ſetting forth, that Cuſtomes and Subſidies upon Merchandize were a great part of the Kings revenue, and payable to him, and that the ſaid ſhip was ſeiſed for non-payment of the aforeſaid duties: Notwithſtanding the ſaid *warner* the proprietor proſecuted the Officers upon a Suit at Law, and prayes that he may anſwer the ſaid Information before any further proceedings be had at Law. Thereupon the ſaid Sir *Richard weſton*, together with the reſt of the then Barons of the ſaid Court of Exchequer, ordered that the proprietor moving for delivery of his ſaid goods, ſhould firſt anſwer to the Information, after which the ſaid *Warner* demurred to the ſaid Information, in regard no title for any certaine duty was ſet forth by the Information: Which demurrer yet remaines not over-ruled, but the ſaid Sir *Richard weſton* (with the ſaid other Barons) without over-ruling the demurrer, ordered (becauſe *warner* had put in a demurrer, and not anſwered to the ſaid Information) that he ſhould not proceed upon the action of Trover. The proprietor being thus prevented of his remedy by action at Law, ſued forth a Replevin, and (upon pretence of viewing the ſaid goods) cauſed them to be brought forth of a Cellar, hired by a Deputy to the Farmors to that uſe, and being brought forth, they were taken by the Sheriffs of London, by vertue of the ſaid Replevin; and upon oath made of the manner of the taking, as aforeſaid, before the Barons, and upon view of the preſident, inrolls his caſe; the ſaid Sir *Richard weſton*, with the ſaid other Barons, adiudged that the ſaid goods were not repleviſable, and granted an Iniunction to maintaine the poſſeſſion of them, as they were before.

And the ſaid houſe of Commons by Proteſtation, ſaving to themſelves onely the liberties of exhibiting at any time hereafter any other accuſation or impeachment againſt the ſaid Sir *Richard weſton*, and alſo of replying to the anſwer that he, the ſaid Sir *Richard weſton* ſhall make unto the ſaid Articles, or any of them, or of offering proofe of the premiſes, or any of their impeachments or accuſations that ſhall be exhibited by them, as the caſe ſhall (according to the courſe of Parliaments) require, doe pray, that the ſaid Sir *Richard weſton*, one of the Barons of his Majeſties Court of Exchequer, may be put to anſwer, &c.

Articles

The Articles of impeachment of Sir Robert Berkley *Knight, one of the Iuſtices of the Court of the Kings Bench; by the Commons in this preſent Parliament aſſembled, in their own name, and in the name of all the Commons of England, in maintenance of their accuſation, whereby he ſtandeth charged with high treaſon, and other great miſdemeanors.*

1.

IN primis, that the ſaid Sir *Robert Berkley*, then being one of the Juſtices of the ſaid Court of Kings Bench, hath traiterouſly, and wickedly endevoured to ſubvert the fundamentall Lawes, and eſtabliſhed government of the Realme of England; and in ſtead thereof, to introduce an Arbitrary and Tyrannicall government againſt Law, which he hath declared by traiterous and wicked words, opinions, judgements, practices, and actions appearing in the ſeverall Articles enſuing.

2. Whereas by the Statute made in the five and twentieth yeare of the reigne of the late King *Henry* the eigth, prices of victualls are appointed to be rated in ſuch manner, as in the ſaid Statute is declared: But it is manifeſt by the ſaid Statute, Corne is none of the victualls thereby intended. Nevertheleſſe ſome ill affected perſons endevouring to bring a charge upon the ſubjects contrary to Law, did ſurmiſe that the prices of Corn might be rated, and ſet according to the direction of that Statute, and thereupon great gaine might be raiſed to his Majeſty, by licenſes and diſpenſations, for ſelling Corne at other prices: And a command from his Majeſty being procured to the Judges, and ſent to them by *William Noy* Eſquire, his Majeſties then Attorney generall, to deliver their opinions touching the queſtion, whether Corne was ſuch victualls as was intended to have the price rated within the ſaid Statute: In anſwer to which demand, the ſaid Sir *Robert Berkley* then being one of his Majeſties Juſtices of the Court of Kings Bench, in furtherance of the ſaid unlawfull charge, endevoured to be impoſed, as aforeſaid, the thirtieth day of Novem. in the eight yeare of his now Majeſties Reigne, did deliver his opinion, that Corne was ſuch victuall as was intended to have the price rated within the ſaid Statute, which ſaid opinion was contrary to Law, and to the plaine ſence and meaning

of the ſaid Statute; and contrary to his owne knowledge, and was given and delivered by him, with a purppoſe and intention, that the ſaid unlawfull charge might be impoſed upon the Subject.

3. That an information being preferred in the Court of Star-Chamber by the ſaid *William Noy*, his Majeſties then Attorney generall, againſt *Iohn Overman* and fifteene other Soape-makers Defendants, charging them with ſeverall pretended offences, contrary to divers Letters Patents, and Proclamations, touching the making and uttering Soape, and uſing the trade of Soape-makers, and other offences in the ſaid Information mentioned, whereunto the Defendants did plead, and demurre as to part, and anſwer to other part of the ſaid Information: And the ſaid Plea and demurrer being overruled, for that the particulars therein inſiſted upon, would appeare more fully after anſwer and proofe; therefore the Defendants were ordered to anſwer without prejudice, and were to be admitted to ſuch exceptions to the ſaid Information, and advantages of the matter of the Plea and demurrer upon the hearing as ſhall be materiall; and accordingly the Defendants did put in their anſwers, and ſet forth ſeverall Acts of Parliament, Letters Patents, Charters, Cuſtomes, and Act of Common Councell of the City of London, and other matters materially conducing to their defence; and in concluſion pleaded not guilty. The ſaid Sir *Robert Berkley* then being one of the Juſtices of the Court of Kings Bench, upon the 30. day of March, in the eighth yeare of his Majeſties now Reigne, upon an Order of Reference to him and others by the ſaid Court of Star Chamber, to conſider of the impertinency of the ſaid anſwers, did certifie the ſaid Court of Star-chamber, that the whole anſwers, excepting the foure words, and ten laſt lines, ſhould be expunged, leaving thereby no more ſubſtance of the ſaid anſwers, then the Plea of not guilty. And after upon a Reference to him and others, by order of the ſaid Court, of the impertinency of the Interrogatories and depoſitions of witneſſes taken on the Defendants part; in the ſame caſe the ſaid Sir *Robert Berkley*, upon the ſecond day of May, in the eighth yeare of his now Majeſties Reigne, certified that nine and thirty of the ſaid Interrogatories, and the depoſitions upon them taken, ſhould bee ſuppreſſed with anſwers (except as aforeſaid) and depoſitions, although the ſame did containe the ſaid Defendants moſt materiall defence. Yet were expunged and ſuppreſſed according to the ſaid certificates; both which ſaid certificates were contrary to Law and Juſtice, and contrary to his the ſaid Sir *Robert Berkley*'s owne knowledge, and contrary to the ſaid former order, whereby the advantages were ſaved to the Defendants, as aforeſaid: And by reaſon thereof, the ſaid *Iohn Overman*, and the ſaid other fifteene Defendants, were ſentenced in the ſaid Court of Star-chamber, to be committed priſoners to the Fleet, and diſabled from uſing their trade of Soap-makers: And one of them fined in a thouſand five hundred pounds; two of them

them in a thouſand pound a peece; foure of them in a thouſand Marke a peece; which fines were eſtreated into the Exchequer without any mitigation: And the ſaid Defendants according to the ſaid ſentence were impriſoned, and deprived of their trade and livelihood, tending to the utter ruine of the ſaid Defendants, and to the overthrow of free-trade, and contrary to the liberty of Subjects.

4. That he the ſaid Sir *Robert Berkley* then being one of the Juſtices of the Kings Bench, and having taken an oath for the due adminiſtration of Juſtice, according to the Lawes and Statutes of this Realme, to his Majeſties Liege people; on or about the laſt of December ſubſcribed an opinion in *hec verba*; [I am of opinion, that as where the benefit doth more particularly redound to the good of the Ports or Maritime parts, (as in caſe of Pyracy or Depredations upon the Seas) there the charge hath beene, and may be lawfully impoſed upon them, according to preſidents of former times; ſo where the good and ſafety of the Kingdome in generall is concerned, and the whole Kingdome in danger (of which his Majeſty is the onely Judge) there the charge of the defence ought to be borne by all the Realme in generall; this I hold agreeable both to Law and reaſon.]

5. That he the ſaid Sir *Robert Berkley*, then being one of the Juſtices of the Court of Kings Bench, and duely ſworn as aforeſaid; In Febru. 1636. ſubſcribed an extrajudiciall opinion, in anſwer to queſtions in a letter from his Majeſty, in *hec verba*;

Charles R. 'When the good and ſafety of the Kingdome in generall 'is concerned, and the whole Kingdome in danger; Whether may 'not the King by writ under the great Seale of England, command all 'the Subjects of this Kingdome, at their charge to provide and furniſh 'ſuch number of Ships, with Men, Victualls, and Munition; and for 'ſuch time as he ſhall thinke fit, for the defence and ſafeguard of the 'Kingdome, from ſuch danger and perill? And by Law compell the 'doing thereof in caſe of refuſall, or refractorineſſe? and whether in 'ſuch caſe is not the King the ſole Judge, both of the danger, and 'when and how the ſame is to be prevented and avoyded? *C. R.*

'May it pleaſe your moſt excellent Majeſty, We have according to 'your Majeſties command, ſeverally every man by himſelfe, and all of 'us together, taken into ſerious conſideration the Caſe and Queſtion 'ſigned by your Majeſty, and incloſed in your Royall Letter: And we 'are of opinion, that when the good and ſafety of the Kingdome in 'generall is concerned, and the whole Kingdome in danger, your Ma'jeſty may by writ under the great Seale of England, command all 'your ſubjects of this your Kingdome, at their charge to provide and 'furniſh ſuch number of Ships, with Men, Victuall, and Munition; 'and for ſuch time as your Majeſty ſhall thinke fit, for the defence and 'ſafeguard of the Kingdome from ſuch danger and perill; And that by

'Law your Majeſty may compell the doing thereof in caſe of refuſall,
'or refractorineſſe: And we are alſo of opinion that in ſuch caſe,
'your Majeſty is the ſole Judge both of the danger, and when and how
'the ſame is to be prevented and avoyded. *Iohn Bramſton*, *Iohn Finch*,
'*Humphrey Davenport*, *Iohn Denham*, *Richard Hutton*, *Williams Jones*,
'*George Crooke*, *Thomas Trevor*, *George Vernon*, *Robert Berkley*, *Francis*
'*Crawley*, *Richard Weſtone*.

6. That he the ſaid Sir *Robert Berkley*, then being one of the Juſtices of the Court of Kings Bench, and duly ſworne as aforeſaid, did on the deliver his opinion in the Exchequer Chamber againſt *Iohn Hampden* Eſquire, in the Caſe of Ship-mony, that hee the ſaid *Iohn Hampden* upon the matter and ſubſtance of the Caſe, was chargeable with the money then in queſtion: A coppie of which proceeding and judgement, the Commons of this preſent Parliament have delivered to your Lordſhips.

7. That he the ſaid Sir *Robert Berkley*, then being one of the Juſtices of the Court of Kings Bench, and one of the Juſtices of Aſſize for the County of Yorke; did at the Aſſizes held at Yorke in Lent, 1636, deliver in his charge to the grand Iurie, that it was a lawfull and inſeparable flower of the Crowne, for the King to command not onely the Maritime Counties, but alſo thoſe that were In-land to finde ſhips for the defence of the Kingdome. And then likewiſe falſely, and maliciouſly affirmed, that it was not his ſingle judgement, but the judgement of all his brethren, witneſſed by their ſubſcriptions: And then alſo ſayd, that there was a rumour that ſome of his Brethren that had ſubſcribed, were of a contrary judgement; but it was a baſe and unworthy thing, for any to give his hand contrary to his heart; and then wiſhed for his owne part that his hand might rot from his arme, that was guiltie of any ſuch crime, when as he knew that Mr. Juſtice *Hutton* and Mr. Juſtice *Crooke*, who had ſubſcribed, were of a contrary opinion, and was preſent when they were perſwaded to ſubſcribe; and did ſubſcribe for conformitie, onely becauſe the major number of the Judges had ſubſcribed. And he the ſayd Sir *Robert Berkley* then alſo ſaid, that in ſome Caſes the Judges were above an Act of Parliament; which ſaid, falſe malitious words were uttered, as aforeſaid, with intent and purpoſe to countenance and maintaine the ſaid unjuſt opinions, and to terrifie his Majeſties Subjects that ſhould refuſe to pay Ship-money, or ſeek any remedie by Law againſt the ſaid unjuſt and illegall taxation.

8. That whereas *Richard Chambers* Merchant, having commenced a ſuit for treſpaſſe and falſe impriſonment againſt Sir *Edward Bromfield* Knight, for impriſoning him the ſaid *Chambers* for refuſing to pay Ship-mony, in the time that the ſaid Sir *Edward Bromfield* was Lord Maior of the Citie of London, in which ſute the ſaid Sir *Edward Bromfield* did make a ſpeciall juſtification: The ſaid Sir *Robert Berkley* then being

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one of the Iuſtices of the Court of Kings Bench, in Trinity Term laſt, then ſitting on the Bench in the ſaid Court, upon debate of the ſaid caſe, between the ſaid *Chambers* and Sir *Edward Bromfield*, ſaid openly in the Court, that there was a rule of Law, and a rule of government: And that many things which might not be done by the rule of Law, might be done by the rule of government: and would not ſuffer the point of legalitie of Ship-money to be argued by the ſaid *Chambers* his Councell; all which opinions, declarations, words and ſpeeches, contained in the third, fourth, fifth, ſixth, ſeventh, and eighth Articles, are deſtructive to the fundamentall Laws of this Realme, the Subjects right of propertie, and contrary to former reſolutions in Parliament, & to the petition of right: which reſolution in Parliament, and petition of right were well known to him, and reſolved, and enacted, when hee was the Kings Sergeant at law, and attendant in the Lords houſe of Parliament.

9. That he the ſaid Sir *Robert Berkley*, then being one of the Iudges of the Court of Kings Bench, and being in commiſſion of the Peace, and duly ſworn to execute the office of a Iuſtice of Peace in the Countie of *Hertford*, on or about the ſeventh of *Ianuary*, 1638. at which time the generall Seſſions of the Peace for the ſaid Countie were there holden: The ſaid Sir *Robert Berkley*, then and there ſitting on the Bench, did revile and threaten the grand Iurie returned to ſerve at the ſaid Seſſions, for preſenting the removall of the communion Table in All Saints Church in *Hertford* aforeſaid out of the place where it anciently and uſually ſtood, and ſetting it Altar-waies, againſt the Lawes of this Realme, in that Caſe made and provided, as an innovation in matters concerning the Church; the ſaid grand Iurie having diliuered to them in charge at the ſaid Seſſions, by Maſter Sergeant *Atkins* a Iuſtice of the Peace of the ſaid Countie of *Hertford*, that by the oath they had taken, they were bound to preſent all innovations concerning Church matters. And he the ſaid Sir *Robert Berkley* compelled the fore-man of the Iurie, to tell him who gave him any ſuch information, and thereby knowing it to be one *Henry Browne*, one of the ſaid grand Iurie, he asked the ſaid *Browne* how he durſt meddle with Church matters; who affirming that in the ſaid charge from Maſter Sergeant *Atkins*, the ſaid Iurie was charged to doe; he the ſaid Sir *Robert Berkley* told the ſaid *Browne*, hee ſhould therefore finde ſuerties for the good behavior: and that he the ſaid Sir *Robert Berkley* would ſet a great fine on his head, to make him an example to others; and thereupon the ſaid *Browne* offered ſufficient baile, but he the ſaid Sir *Robert Berkley*, being incenſed againſt him refuſed the ſaid baile, and committed the ſaid *Browne* to priſon, where he lay in Irons till the next morning, and uſed to the ſaid *Brown* and the reſt of the Iurors many other reviling and terrifying ſpeeches; And ſaid he knew no Law for the ſaid preſentment, and told the ſaid *Browne* that hee had ſinned in the ſaid preſentment:

And he compelled the ſaid grand Jurors to ſay they were ſorry for what they had done in that preſentment; and did bid them to trample the ſaid preſentment under their feet, and cauſed *Browne* to teare the ſaid preſentment in his ſight. And he the ſaid Sir *Robert Berkley*, when as *Iohn Houland*, and *Ralph Pemberton*, late Maior of Saint Albons, came to deſire his opinion on ſeverall Indictments againſt *John Browne* Parſon of Saint Albons, and *Anthony Smith* Vicar of Saint Peters in Saint Albons, at the quarter Seſſions held at the ſaid towne of Saint Albons, on the foure and twentieth of June, 1639. for the removall of the Communion Table out of the uſuall place, and not adminiſtring the Sacrament according to Law in that Caſe provided. He the ſaid Sir *Robert Berkley* then told them that ſuch an Indictment was before him at Hertford, and that he quaſhed the ſame, and impriſoned the Promoters; by which threatning and reviling ſpeeches, unjuſt actions and declarations, he ſo terrified the Jurors in thoſe parts, that they durſt not preſent any Innovations in the Church matters, to their great griefe and trouble of their conſciences.

And whereas ſeverall Indictments, were preferred againſt *John Brook* Parſon of Yarmouth, by *John Ingram* and *John Carter*, for refuſing ſeverall times to adminiſter the Sacrament of the Lords Supper to them without any lawful cauſe, at the Aſſizes held at Norwich in 1633. He the ſaid Sir *Robert Berkley* then being one of the Judges of the Aſſize, proceeded then to the tryall on the ſaid Indictments; where the matter in iſſue being, that the ſaid *Brooke* refuſed to adminiſter the ſaid Sacrament, becauſe the ſaid *Ingram* and *Carter* would not receive tickets with their Sir-names before their Chriſten-names, which was a courſe never uſed amongſt them but by the ſaid *Brooke*. He the ſaid Sir *Robert Berkley* did then much diſcourage the ſaid *Ingrams* Counſell, and over rule the cauſe for matter of Law, ſo as the Jury never went from the Bar, but there found for the ſaid *Brooke*. And the ſaid Sir *Robert Berkley* bound the ſaid *Ingram* to the good behaviour for the proſecuting the ſaid Indictments, and ordered him to pay coſts to the ſaid *Brooke* for wrongfully inditing him. And whereas the ſaid *Carter*, not expecting the triall at the ſame Aſſizes he preferred his Indictment, was then abſent, whereupon the ſaid Sir *Robert Berkley* did cauſe to be entred upon the ſaid Indictment, a *vocat quia non ſufficiens in lege*, and ordered an Attachment againſt the ſaid *Carter*, which ſaid proceedings againſt the ſaid *Ingram* and *Carter*, by the ſaid Sir *Robert Berkley*, were contrary to Law and Juſtice, and to his owne knowledge.

10. That the ſaid Sir *Robert Berkley*, being one of the Juſtices of the Court of Kings Bench, and duly ſworne as aforeſaid, in Trinity terme 1637. deferred to diſcharge or baile *Alexander Jennings* priſoner in the Fleet, brought by *Habeas Corpus* to the Bar of the ſaid Court, the

returne

returne of his Commitment being that he was committed by two ſeverall warrants from the Lords of the Councell, dated the fift of November, 1636. the firſt being only read in Court expreſſing no cauſe, the other for not paying Meſſengers fees; and untill he ſhould bring a certificate that hee had paid his Aſſeſſement for Ship money in the County of Bucks, but remitted him: And in Michaelmas Terme after, the ſaid *Jenings* being brought by another *Habeas Corpus* before him as aforeſaid, and the ſame returned; yet he the ſaid Sir *Robert Berkley*, refuſed to diſcharge or baile him, but remitted him. And in Haſter Terme, after ſeverall rules were given for his Majeſties Councell to ſhew cauſe why the ſaid *Jenings* ſhould not be bailed, a fourth rule was made for the ſaid *Jenings*, to let his Majeſties Attorney generall have notice thereof, and notice was given accordingly; and the ſaid *Jenings* by another *Habeas Corpus*, brought to the Bar in Trinity Terme after, and the ſame returne with this addition of a new Commitment of the fourth of *May*, ſuggeſting hee the ſaid *Jenings* had uſed divers ſeditious words in derogation and diſparagement of his Majeſties government: He the ſaid *Jenings* after ſeverall rules in the end of the ſaid Trinity Terme, was againe remitted to priſon. And he the ſaid Sir *Robert Berkley* did on the fifth of June laſt, deferre to grant his Majeſties writs of *Habeas Corpus* for *William Pargiter* and *Samuel Danvers*, Eſquires, Priſoners in the Gate houſe, and in the Fleet: And afterwards having granted the ſaid writ of *Habeas Corpus*, the ſaid *Pargiter* and *Danvers* were on the eight of June laſt brought to the Bar of the ſaid Court, where the returnes of their Commitments were ſeverall warrants from the Lords of the Councell, not expreſſing any cauſe; yet he the ſaid Sir *Robert Berkley*, then ſitting in the ſaid Court, deferred to baile the ſaid *Pargiter* and *Danvers*, and the eighteenth of June laſt, made a rule for a new returne to be received, which were returned the 25. of June laſt, *in hac verba*:

'Whereas his Majeſty finding that his Subjects of Scotland, have in 'rebellious and hoſtile manner aſſembled themſelves together, and 'intend not only to ſhake off their obedience unto his Majeſty, but alſo 'as enemies to invade and infeſt this his Kingdome of England to the 'danger of his Royall Perſon, &c.

For prevention whereof, his Majeſty hath by the advice of his Councell-board, given ſpeciall commandement to all the Lord Lieutenants of all the Counties of this Realme, appointed for their Randezvouz, in their ſeverall and reſpective Counties, there to be conducted and drawne together into a body for this ſervice. And whereas his Majeſtie, according to the Lawes and Statutes of this realme, and the conſtant cuſtome of his Prodeceſſours, Kings and Queenes of this Realme, hath power for the defence of this kingdome, and reſiſting the force of the Enemies thereof, to grant forth Commiſſions under

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his great Seale to ſuch fit perſons as hee ſhall make choice of, to array and arme the Subjects of this kingdome, and to compell thoſe who are of able body, and of able eſtates, to arme themſelves; and ſuch as ſhould not bee able of bodies, but of abilitie in eſtate, to aſſeſſe them according to their eſtates, to contribure towards the charge of arraying and arming others being able of body, and not able in eſtate to arme themſelves. And ſuch perſons as ſhould be contrariant to commit to priſon, there to remaine untill the King ſhould take further order therein.

And whereas the Earle of Exeter, by vertue of his Majeſties Commiſſion to him directed, for the arraying and arming of a certaine number of perſons in the Countie of Northampton, hath aſſeſt *William Pargiter* being a man unfit of body for that ſervice, but being of eſtate and abilitie fit to contribute amongſt others, to pay the ſum of five ſhillings toward the arraying and arming of others of able bodies, and wanting abilitie to array and arme themſelves.

And whereas wee have received information from the ſaid Earle, that the ſaid *William Pargiter* hath not only in a wilfull and diſobedient manner refuſed to pay the ſaid money aſſeſſed upon him towards ſo important a ſervice, to the diſturbance and hinderance of the neceſſary defence of this kingdome; but alſo by his ill example hath miſled many others, and, as we have juſt cauſe to beleeve, hath practiſed to ſeduce others from that ready obedience which they owe, and would otherwiſe have yeelded to his Majeſties juſt command, for the publick defence of his perſon and kingdome; which we purpoſe with all convenient ſpeed to enquire further of and examine.

Theſe are therefore to will and require you, to take into your cuſtodie the perſons of the ſaid *William Pargiter*, and *Samuel Danvers*; and them ſafely to keepe priſoners till further order from this Board, or untill by due courſe of Lawe they ſhall bee delivered: Yet he the ſaid *Sir Robert Berkley*, being deſired to baile the ſaid *Pargiter* and *Danvers*, remitted them, where they remained priſoners till the ninth of November laſt, or thereabours, although the ſaid *Ienings*, *Pargiter*, and *Danvers*, on all and every the ſaid returnes, were clearely baileable by Law; and the councell of the ſaid *Ienings*, *Pargiter*, and *Danvers* offered in Court very ſufficient baile. And he the ſaid Sir *Robert Berkley* being one of the Juſtices of the Court of the Kings Bench, denyed to grant his Majeſties writs of *Habeas Corpus* to very many others his Majeſties ſubiects; and when he had granted the ſaid writs of *Habeas Corpus* to very many others his Majeſties ſubjects, and on the returne no cauſe appeared, or ſuch onely as was clearly baileable by Law; yet hee remanded them, where they remained priſoners very long; which ſaid deferring to grant the ſaid writs of *Habeas Corpus*, and refuſals, and delayes to diſcharge priſoners, or ſuffer them to be bailed, contained in

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this Article, are destructive to the fundamentall Lawes of this Realme, and contrary to former resolutions in Parliament, and to the petition of Rights which said resolutions and petition of Right were well knowne to him the said Sir *Robert Berkley*, and were resolved on and enacted, when he was the Kings Serjeant at Law, and Attendant in the Lords House in Parliament.

11. That whereas there was a cause depending in the Court Christian at Norwich, between *Samuel Booty* Clerke, and *Collard* for two shillings in the pound, for tythes for rents & houses in Norwich, and the said *Collard* moved by his Councell in the Court of Kings Bench for a prohibition to stay proceedings in the Court Christian at Norwich, and delivered into the said Court of Kings Bench his suggestions, that the said cause in the said Court Christian was onely for tythes for rents of houses in Norwich, which was determinable by the Common Law onely: yet he the said Sir *Robert Berkley*, being one of the Justices of the said Court of Kings Bench, and sitting in the said Court, deferring to grant a prohibition to the said Court Christian in the said cause, although the Councel did move in the said Court many severall times, and severall termes for a prohibition: And he the said Sir *Robert Berkley* deferred to grant his Majesties writ of prohibition, to severall other Courts on the motions of divers others of his Majesties subjects, where the same by the Lawes of this Realme ought to have been granted, contrary to the Lawes of this Realme, and his owne knowledge.

All which words, opinions, and actions, were so spoken and done by him the said Sir *Robert Berkley* traiterously and wickedly to alienate the hearts of his Majesties liege people from his Majesty, & to set a division betwixt them, and to subvert the fundamentall Lawes and established government of his Majesties Realme of England: For which they doe impeach him the said Sir *Robert Berkley* one of the Justices of the Court of Kings Bench, of high treason against our Soveraigne Lord the King his Crowne and dignity, and of the misdemeanors above mentioned.

And the said Commons by protestation, saving to themselves onely the liberties of exhibiting at any time hereafter, any other accusation or impeachment against the said Sir *Robert Berkley*, and also of replying to the answer, that he the said Sir *Robert Berkley* shall make to the said Articles, or any of them, or of offering proofe of the premisses, or any other impeachments or accusations that shall be exhibited by them, as the Case shall according to the course of Parliaments require, doe pray that the said Sir *Robert Berkley*, one of the Justices of the Court of Kings Bench may be put to answer to all and every the premisses; and that such proceedings, examinations, trialls, judgements, and executions, may be upon every of them had & used, as is agreeable to Law & Justice.

Articles of the House of Commons in the name of themselves, and of all the Commons of England, against Sir John Bramston *Knight, Lord chiefe Iustice of the Court of Kings Bench, impeaching him as followeth.*

1.

THAT the said Sir *John Bramston*, then being Lord Chiefe Justice of the Court of Kings Bench, and having taken an oath for the due administration of Justice to his Majesties Liege people, according to the Lawes and Statutes of this Realme, did, on or about the last of November, 1635. subscribe his name to an opinion, *in hæc verba*: [I am of opinion, that as where the benefit doth more peculicaly redound to the good of the Ports, or Maritime parts (as in case of Pyracy or Depredations upon the Seas) there the charge hath beene, and may be lawfully imposed upon them, according to presidents of former times; so where the good and safety of the Kingdome in generall is concerned, and the whole Kingdome in danger, (of which his Majesty is the onely Judge) there the charge of the defence ought to be borne by all the Realme in generall: this I hold agreeable both to Law and Reason.]

2. That he the said Sir *John Bramston*, then being Lord chiefe Justice of the Court of Kings Bench, about the Month of February, 1635. did subscribe an extrajudiciall opinion in answer to questions in a letter from his Majesty, which letter, questions and answers follow, *in hæc verba*;

'*Charles R.* When the good and safety of the Kingdome in generall is concerned, and the whole Kingdome in danger, whether may not the King by writ under the great Seale of England, command all the Subjects of this Kingdome, at their charge to provide and furnish such number of Ships with Men, Victuall, and Munition; and for such time as he shall thinke fit, for the defence and safeguard of the Kingdome, from such danger and perill; and by Law compell the doing thereof in case of refusall, or refractorinesse? And whether in such case is not the King the sole Judge, both of the danger, and when and how the same is to be prevented and avoided? *C. R.*

'May

'May it pleaſe your moſt excellent Majeſtie, Wee have, according 'to your Majeſties command, ſeverally every man by himſelfe, and 'all of us together, taken into ſerious conſideration the Caſe & Que'ſtion aſſigned by your Majeſtie, and incloſed in your Royall Let'ter: And wee are of opinion, that when the good and ſafety of 'the Kingdome in generall is concerned, and the whole King'dome in danger, your Majeſty may by writ under the great Seale 'of England, command all the Subjects of this your Kingdome, 'at their charge, to provide and furnith ſuch number of Shippes, 'with Men, Victuall, and Munition, and for ſuch time as your Ma'jeſtie ſhall thinke fit, for the defence and ſafeguard of the King'dome, from ſuch danger and perill: And that by Law your Maje'ſty may compell the doing thereof in caſe of refuſall, or refracto'rineſſe. And wee are alſo of opinion, that in ſuch caſe, your Maje'ſtie is the ſole Judge both of the danger, and when, and how 'the ſame is to be prevented and avoided. *Iohn Brampſton, Iohn Finch, 'Humphrey Davenport, Iohn Denham, Richard Hutton, William Iones, 'George Crooke, Thomas Trevor, George Vernon, Robert Berkley, Francis 'Crawley, Richard Weſton.*

Which ſaid opinions contained in the firſt and ſecond Articles, are deſtructive to the fundamentall Lawes of this Realme, the ſubjects right of property, and contrary to former reſolutions in Parliament, and to the petition of Right.

3. That he the ſaid Sir *Iohn Brampſton*, then Lord chiefe Juſtice of the Court of Kings Bench, about Trinity Tearme, 1637. refuſed to baile or diſcharge *Alexander Iennings*, priſoner in the Fleet, brought by *habeas Corpus* to the barre before him, the return of this Commitment being two ſeverall warrants from the Lords of the Councell, dated the fifth of November 1635. the firſt expreſſing no cauſe, the other for not paying Meſſengers fees; and untill hee ſhould bring certificate that hee had paid his Aſſeſment for ſhip-money in the County of Bucks: And the ſaid Sir *Iohn Brampſton*, the firſt warrant being onely read, then ſaid, The cauſe of his Commitment did not appeare; and that it was not fit for every Goaler to be made acquainted by the Lords of the Councell, why they committed, and therefore remitted him. And in Michaelmas Tearme after, the ſaid *Iennings* being brought by another *habeas Corpus*, as aforeſaid, and the ſame returned, yet hee the ſaid Sir *Iohn Brampſton*, refuſed to diſcharge or baile him, but remitted him. And in Eaſter Tearme next, after ſeverall rules for his Majeſties Councell to ſhew cauſe why he the ſaid *Iennings* ſhould not bee bailed, a fourth rule was made for the ſaid *Iennings*, to let his Majeſties Attorney have notice, which notice was given accordingly, yet he remitted him. And the ſaid *Iennings* by another *habeas Corpus* brought to the Barre, as aforeſaid, in Trinity Tearme after, and the ſame returne with the addition of a

new Commitment of the fourth of May, 1638. ſuggeſted, that he the ſaid *Iennings* had uſed divers ſcandalous words in derogation and diſparagement of his Majeſties government: After ſeverall rules, in the end of the ſaid Trinity Tearme, he againe remitted him to priſon. And he the ſaid Sir *Iohn Brampſton*, about the 9. of July after, at his chamber in Serjeants Inne, being deſired by Maſter *Mewtis* one of the Clerkes of the Councell-boord, to diſcharge the ſaid *Iennings*, for that he the ſaid *Iennings* had entred into a bond of one thouſand pounds, to appeare before the Lords of the Councell the next Michaelmas Tearme after, and to attend *de die in diem*; yet the ſaid Sir *Iohn Brampſton* refuſed to diſcharge the ſaid *Iennings* untill hee entred into Recognizance to appeare the next Tearme, and in the meane time to bee of his good behaviour. And the ſaid *Iennings* was continued on his ſaid Recognizance till Eaſter Tearme after. And the ſaid Sir *Iohn Brampſton* did on the fifth of June 1640. deſerre to grant his Majeſties Writ of *habeas Corpus* for *Samuel Danvers*, and *William Pargiter* Eſquires, priſoners in the Gate houſe, and in the Fleet; and when hee had granted the ſaid Writ, the ſaid eight of June after the returne, being the order of the Councell Table, not expreſſing any cauſe, he the ſaid Sir *Iohn Bramſton* deferred to baile the ſaid *Pargiter*. And the eighteenth of June after, made a rule for a new returne to be received, which was returned the five and twentieth of the ſaid June, *in hæc verba*:

'Whereas his Majeſty finding that his Subjects of Scotland, have in 'rebellious and hoſtile manner aſſembled themſelves togeth r, and 'intend not only to ſhake off their obedience unto his Majeſty, but alſo 'as enemies to invade and infeſt this his King dome of England to the 'danger of his Royall Perſon, &c.

For prevention whereof, his Majeſty hath by the advice of his Councell-board, given ſpeciall commandement to all th: Lord Lieutenants of all the Counties of his Realm, with expedition to array and arme a certain number of able men in each County, to be prepared ready to be conducted to ſuch places as ſhould be appointed for their Randezvouz, in their ſeverall and reſpective Counties, there to be conducted and drawne together into a body for this ſervice. And whereas his Majeſtie, according to the Lawes and Statutes of this realme, and the conſtant cuſtome of his Predeceſſours, Kings and Queenes of this Realme, hath power for the defence of this kingdome, and reſiſting the force of the Enemies thereof, to grant forth Commiſſions under his great Seale to ſuch fit perſons as hee ſhall make choice of, to array and arme the Subjects of this kingdome, and to compell thoſe who are of able body, and of able eſtates, to arme themſelves; and ſuch as ſhould not bee able of bodies, but of abilitie in

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eſtate, to aſſeſſe them according to their eſtates, to contribute towards the charge of arraying and arming others being able of body, and not able in eſtate to arme themſelves. And ſuch perſons as ſhould be contrariant to commit to priſon, there to remaine untill the King ſhould take further order therein.

And whereas the Earle of Exeter, by vertue of his Majeſties Commiſſion to him directed, for the arraying and arming of a certaine number of perſons in the Countie of Northampton, hath aſſeſt *William Pargiter* being a man unfit of body for that ſervice, but being of eſtate and abilitie fit to contribute amongſt others, to pay the ſum of five ſhillings toward the arraying and arming of others of able bodies, and wanting abilitie to array and arme themſelves.

And whereas wee have received information from the ſaid Earle, that the ſaid *William Pargiter* hath not only in a wilfull and diſobedient manner refuſed to pay the ſaid money aſſeſſed upon him towards ſo important a ſervice, to the diſturbance and hinderance of the neceſſary defence of this kingdome; but alſo by his ill example hath miſled many others, and, as we have juſt cauſe to beleeve, hath practiſed to ſeduce others from that ready obedience which they owe, and would otherwiſe have yeelded to his Majeſties juſt command, for the publick defence of his perſon and kingdome; which we purpoſe with all convenient ſpeed to enquire further of and examine.

Theſe are therefore to will and require you, to take into your cuſtodie the perſon of the ſaid *William Pargiter*, and him ſafely to keepe priſoner till further order from this Board, or untill by due courſe of Lawe he ſhall bee delivered: (And the like return was then made in all things, *mutatis mutandis*, concerning the ſaid *Danvers* for not paying a ſum of money aſſeſſed upon him) Yet hee the ſaid Sir *Iohn Bramſton* deferred to bail the ſaid *Danvers*, and *Pargiter*, but remitted the ſaid *Danvers* to the Fleet, where hee remained till the 12. of July 1640. and the ſaid *Pargiter* to the Gate-houſe, where he remained till the ninth of November laſt, although the ſaid *Iennings*, *Danvers*, and *Pargiter*, upon all and every the ſaid returns, ought to have been diſcharged or bailed by Law; and the Councell of the ſaid *Iennings*, *Danvers*, and *Pargiter*, offered in Court very ſufficient baile.

And he the ſaid Sir *Iohn Brampſton* being chiefe Juſtice of the Court of Kings Bench, denyed to grant his Majeſties Writ of *Habeas Corpus* to very many others his Majeſties ſubiects; and when hee had granted the ſaid writs of *Habeas Corpus* to very many others his Majeſties ſubjects, and on the returne no cauſe appeared, or ſuch cauſe onely as was clearly baileable by Law; yet hee remanded them, where they remained priſoners very long; which ſaid deferring to grant the ſaid writs of *Habeas Corpus*, and refuſals, and delayes to diſcharge priſoners, or ſuffer them to be bailed, contained in

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in this Article, are deſtructive to the fundamentall Lawes of this Realme, and contrary to former reſolutions in Parliament, and to the petition of Right; which ſaid reſolutions and petition of Right were well knowne to him the ſaid Sir *Iohn Brampſton*.

4. That whereas there was a cauſe depending in the Court Chriſtian at Norwich, between *Samuel Beely* Clerk, and *Collard* for two ſhillings in the pound for tythes for rents of houſes in Norwich, & the ſaid *Collard* moved by his Councell in the Court of Kings Bench for a prohibition to ſtay proceedings in the Court Chriſtian at Norwich, and delivered into the ſaid Court of Kings Bench his ſuggeſtions, that the ſaid cauſe in the ſaid Court Chriſtian was for tythes for rents of houſes in Norwich, which was determinable by the Common Law only; yet he the ſaid Sir *Iohn Brampſton*, being chiefe Juſtice of the ſaid Court of Kings Bench, and ſitting in the ſaid Court, deferred to grant a prohibition to the ſaid Court Chriſtian in the ſaid cauſe, although the Counſell did move in the ſaid Court ſeverall times, and ſeveral termes for a Prohibition: And he the ſaid Sir *Iohn Bramſton* deferred to grant his Majeſties writs of prohibition to ſeverall other Courts on the motions of divers others of his Majeſties ſubjects, where the ſame by Laws of this Realme ought to have been granted, contrary to the Lawes of this Realme, and his owne knowledge.

And the ſaid Commons by proteſtation, ſaving to themſelves onely the liberties of exhibiting at any time hereafter, any other accuſation or impeachment againſt the ſaid Sir *Iohn Brampſton*, and alſo of replying to the anſwer that he the ſaid Sir *Iohn Brampſton* ſhall make unto the ſaid Articles, or any of them, or of offering proofe of the premiſſes, or any of their impeachments or accuſations that ſhall bee exhibited by them, as the Caſe ſhall (according to the courſe of Parliaments) require, doe pray that the ſaid Sir *Iohn Brampſton*, Lord chiefe Juſtice of the Court of Kings Bench, may bee put to anſwer to all and every the premiſſes; and that ſuch proceedings, examinations, trials, and judgements, may be upon every of them had and uſed, as is agreeable to Law and Juſtice.

Articles

Articles of the Houſe of Commons in the name of themſelves and of all the Commons of England, againſt Sir Francis Crawley *Knight, one of the Iuſtices of his Majeſties Court of Common-pleas, impeaching him as followeth.*

1.

THAT he about the moneth of November, *Anno Dom.* 1635. then being one of the Juſtices of the Court of Common-pleas, and having taken an oath for the due adminiſtration of Juſtice to his Majeſties liege people; according to the Lawes and Statutes of this Realme, ſubſcribed an opinion *in hac verba*: [I am of opinion, that as where the benefit doth more peculiarly redound to the good of the Ports, or Maritime parts, (as in caſe of Piracie, or Depredations upon the Seas, there the charge hath been, and may bee lawfully impoſed upon them, according to preſidents of former times; ſo where the good and ſafety of the Kingdome in generall is concerned, and the whole Kingdome in danger, (of which his Majeſty is the onely Judge) there the charge of the defence ought to bee borne by all the Realme in generall: This I hold agreeable both to Law and Reaſon.]

2. That he in or about the Month of February, *Ann. Dom.* 1636. then being one of the Juſtices of the ſaid Court of Common-pleas, ſubſcribed an extrajudiciall opinion, in anſwer to queſtions in a letter from his Majeſty, *in hac verba*:

'*Charles R.* When the good and ſafety of the Kingdome in generall 'is concerned, and the whole Kingdome in danger, whether may 'not the King by writ under the great Seale of England, command all 'the Subjects of this Kingdome, at their charge, to provide and fur-'niſh ſuch number of Ships with Men, Victuall, and Munition; and for 'ſuch time as he ſhall thinke fit, for the defence and ſafegnard of the 'Kingdome, from ſuch danger and perill? And by Law compell the 'doing thereof in caſe of refuſall, or refractorineſſe? and whether in 'ſuch caſe is not the King the ſole Judge, both of the danger, and

'when

when and how the ſame is to be prevented and avoyded? *C. R.*

'May it pleaſe your moſt excellent Majeſty, We have according to 'your Majeſties command, ſeverally every man by himſelfe, and all of 'us together, taken into ſerious conſideration the Caſe and Queſtion 'ſigned by your Majeſty, and incloſed in your Royall Letter: And we 'are of opinion, that when the good and ſafety of the Kingdome in 'generall is concerned, and the whole Kingdome in danger, your Ma'jeſty may by writ under the great Seale of England, command all 'the ſubjects of this your Kingdome, at their charge to provide and 'furniſh ſuch number of Ships, with Men, Victuall, and Munition; 'and for ſuch time as your Majeſty ſhall thinke fit, for the defence and 'ſafeguard of the Kingdome from ſuch danger and perill; And that by 'Law your Majeſty may compell the doing thereof in caſe of refuſall, 'or refractorineſſe: And we are alſo of opinion that in ſuch caſe, 'your Majeſty is the ſole Judge both of the danger, and when and how 'the ſame is to be prevented and avoyded. *Iohn Bramſton, Iohn Finch, 'Humphrey Davenport, Iohn Denham, Richard Hutton, William Iones, 'George Crooke, Thomas Trevor, George Vernon, Robert Berkley, Francis 'Crawley, Richard Weſtone.*

3. That hee then being one of the Juſtices of the ſaid Court of Common pleas, delivered an opinion in the Exchequer Chamber againſt *Iohn Hampden* Eſquire, in caſe of Ship-money; that he the ſaid *Iohn Hampden* upon the matter & ſubſtance of the caſe, was chargeable with the money then in queſtion (a copy of which proceedings and judgement, the Commons of this preſent Parliament have already delivered to your Lordſhis.)

4. That he then being one of the Juſtices of the ſaid Court of Common-pleas, declared and publiſhed in the Exchequer Chamber, and Weſtminſter Circuit, where he went Judge, That the Kings Right to Ship-money was ſo inherent a Right in the Crown, as an Act of Parliament could not take it away And with divers malicious ſpeeches enveighed againſt, threatned and diſcountenanced ſuch as refuſed to pay Ship-money. All which opinions and judgements contained in the firſt, ſecond, and third Articles are deſtructive to the fundamentall Lawes of this Realme, the Subjects right of property, and contrary to former reſolutions in Parliament, and to the petition of Right, which ſaid reſolutions and petitions of Right were well knowne to him.

And the ſaid Commons by proteſtation, ſaving to themſelves onely the Liberties of exhibiting at any time hereafter any other accuſation or impeachment againſt the ſaid Sir *Francis Crawley*, & alſo of replying to the anſwer that he the ſaid Sir *Francis Crawley* ſhall make unto the ſaid Articles, or any of them, or of offering proofe of the premiſſes, or of any of their impeachments or accuſations that ſhall be exhibited by them, as the Caſe ſhall according to the courſe of Parliaments require

require, Doe pray that the ſaid Sir *Francis Crawley*, one of the Juſtices of the ſaid Court of Common-pleas, may bee put to anſwer to all and every the premiſſes; and that ſuch proceedings, examinations, trials, and judgements may be upon every one of them had and uſed, as is agreeable to Law and Juſtice.

Articles of the Houſe of Commons in the name of themſelves, and of all the Commons of England, againſt Sir Humphrey Davenport *Knight, Lord chiefe Baron of his Majeſties Court of Exchequer, impeaching him as followeth.*

THAT whereas in the moneth of October, in the fourth yeare of his Majeſties reigne, the Farmours and Officers of the Cuſtome-houſe, having ſeized great quantities of Currants, being the goods of *Samuel Vaſſall* Merchant, and having conveyed them into certaine Store houſes at the Cuſtome-houſe, and detained them, becauſe the ſaid *Samuel Vaſſall* refuſed to pay an impoſition of five ſhillings ſix pence upon every hundred weight of the ſaid Currants, pretended to bee due upon, and demanded by the ſaid Farmours & Officers on his Majeſties behalfe for the ſaid Currants, whereas no ſuch impoſition was due or payable for the ſame; but the ſaid impoſition was and is againſt the Lawes of this Realme.

And whereas alſo in Michaelmas Tearme, in the ſaid fourth yeare of his Majeſties reigne, his Majeſties then Attorney generall, exhibited an information by Engliſh Bill in the Exchequer againſt the ſaid *Samuel Vaſſall*, ſetting forth that King *Iames* by his Letters Patents, dated *tertio Novemb.* in the ſecond yeare of his reigne, did command the ſaid impoſition of five ſhillings ſix pence upon every hundred weight of Currants ſhould be demanded and received.

And that his Majeſty that now is, by his Letters Patents dated the ſix and twentieth day of July, in the ſecond yeare of his Reigne, did, by advice of his Privy Councell, declare his will and pleaſure to bee, that Subſidies, Cuſtomes and Impoſt ſhould be levied in ſuch manner as they were in the time of King *Iames*; and the ſame, and the Farmes thereof to continue untill it might receive a ſetling by Parliament, and commanded the levying and receiving the ſame accordingly; and that the ſaid *Sam. Vaſſall* before the ſaid firſt day of Octob. then laſt before the ſaid information exhibited, did bring into the port of London in ſhips foure thouſand ſix hundred thirty eight hundred weight of Currants, *Richard Carmarthen* Surveyour in the ſaid port of London, the ſaid firſt day of Octob. demanded of the ſaid *Samuel Vaſſal* the ſaid Impoſition of five ſhillings ſix pence for every hundred weight of the ſaid Currants, and that the ſaid *Samuel Vaſſall* refuſed to pay the ſaid impoſition, and unjuſtly detained it from the King: To which information the ſaid *Samuel Vaſſall* appeared, and pleaded the Statute of *Magna Charta*, and the Statute of *De Tallagio non concedendo*, and that hee was a Subject borne under the Kings Allegeance, and a Merchant of London uſing that trade, and that the ſaid ſumme of five ſhillings ſix pence upon every hundred weight of Currants, was and is *malum talentum*, and not *antiqua (eu recta conſuetudo*, and that it was impoſed without aſſent of Parliament: to which Plea the ſaid Atturney Generall demurred in Law, and the ſaid *Samuel Vaſſall* joyned in demurrer with him; and when the ſaid cauſe came to be argued, *viz.* in Trinity Terme, in the ſixth yeare of his Majeſties Reigne, the ſaid Sir *Humphrey Davenport* being then Lord chiefe Barron of his Majeſties ſaid Court of Exchequer, did contrary to his oath, and contrary to the Lawes of this Realme, and to the great impoveriſhment of the ſaid *Samuel Vaſſall*, publikely denie to heare the Counſell of the ſaid *Samuel Vaſſall* to argue for him, and ſaid, that the caſe of the ſaid *Samuel Vaſſall* would fall under the ſame rule with the caſe of one *Bates*, and therefore was already judged: and when the Councell of the ſaid *Samuell Vaſſall* anſwering that they had nothing to doe with *Bates* his Caſe, but deſired to argue for Maſter *Vaſſall*, the ſaid Sir *Humphrey Davenport* replyed, that they knew the opinion of the Court, and ſhould bee heard no further, and ſaid, that the King was in poſſeſſion, and that they (meaning the ſaid Court of Exchequer) would keepe him in poſſeſſion: And the ſaid Sir *Humphrey Davenport* ſhortly after did (together with the reſt of the then Barons of the ſaid Court of Exchequer) impriſon the ſaid *Samuel Vaſſal* for not paying ſuch ſummes of mony as were pretended by the ſaid Offi-

cers

ters of the Custome-house, to bee due to his Majesty, and did delay the said *Samuel Vassal* from time to time, from having restitution of his said goods, being often in Court moved thereto, with intention to force the said *Samuel Vassal* to pay the said unlawfull imposition, and did also give his opinion and judgement upon the said Information for the King, and against the said *Samuel Vassal*, and by severall orders for that purpose made, did continue the possession of the said goods in the King, and the said *Samuel Vassal* could never obtaine any restitution at all of his said goods; whereas it was commanded to the Sheriffe of the County of Yorke, by Writ under the Seale of his Majesties Court of Exchequer, dated the sixteenth day of May, in the seventh yeare of his Majesties Reigne that now is, That hee should distraine *Iames Maleverer* Esquire, to appeare before the Barons of his Majesties said Court of Exchequer, in the Octaves of the Holy Trinity then next following, to make fine to the KING for his trespasse and contempt in not comming to the presence of the KING before the one and thirtieth day of January, in the first yeare of his said Majesties Reigne, to take upon him the order of Knighthood, according to the forme of a Proclamation in that behalfe formerly made, at which day of the said Octaves of the Holy Trinity, the said *Iames Maleverer* did appeare, and pleaded to the said Writs, that although his said Majesty, the said one and thirtieth day of January, and for three dayes next before the said one and thirtieth day of January was resident and remaining at his Palace at White-hall in the County of Middlesex, and that the said *James Malaverer* the said one and thirtieth day of January, and three dayes next before the said one and thirtieth day of January, was resident and remaining at Ancliffe in the said County of Yorke, which is distant from the said Palace of White-hall the space of one hundred and fourescore miles; and that the said *Iames Maleverer* the said one and thirtieth day of January aforesaid, or at any time before, had no lands or rents in his owne hands, or in the hands of Feoffees, to his use, out of the said County of Yorke, and that that part of the said County of Yorke which is neerest to the said Palace of White hall, is distant from the said Palace of White-hall the space of one hundred and thirty miles; and that no Proclamation by vertue of any Writ of Proclamation, for the appearance of any persons whatsoever, to take the said Order of Knighthood, was made in any part of the said County of Yorke before the thirtieth day of January in the said first yeare of his Majesties Reigne, by reason whereof the said *Iames Maleverer* could not personally come to the presence of his said Majesty to take the said Order of Knighthood before the said one and thirtieth day of January in the said first yeare of his Majesties said Reigne, yet the said *Iames*

Maleverer for his fine in the premiſſes did humbly ſubmit himſelfe to the ſaid Court, and demanded to be diſcharged of the ſaid iſſues returned and impoſed upon him by reaſon of the premiſſes; yet notwithſtanding the ſaid Plea and ſubmiſſion of the ſaid *Iames Maleverer*, and after the ſame was made as aforeſaid, and entred upon Record in his Majeſties ſaid Court of Exchequer, and the ſaid Court moved for ſtay of the Proceſſe, and diſcharge of the iſſues, the ſaid Sir *Humphrey Davenport* being then Lord chiefe Baron of the ſaid Court of Exchequer, contrary to his oath, and contrary the Lawes of this Realme, and to the great impoveriſhing of the ſaid *Iames Maleverer*, did (together with the reſt of the then Barons of the ſaid Court) refuſe to impoſe any fine whatſoever upon the ſaid *Iames Maleverer*, and told him that the ſaid Court had no power to fine him, and that hee muſt compound with certaine Commiſſioners for that purpoſe appointed. And did farther order and direct ſeverall other writs of *Diſtringas*, to iſſue forth of his Majeſties ſaid Court of Exchequer, under the Seale of the ſaid Court, directed to the ſeverall high Sheriffes of the ſaid County of Yorke, whereby the ſaid Sheriffes were commanded further to diſtraine the ſaid *Iames Maleverer* to appeare as aforeſaid; upon which ſaid writs of *Diſtringas*, ſeverall great and exceſſive iſſues were returned upon the lands of the ſaid *Iames Maleverer*, amounting to the ſumme of two thouſand pounds, or thereabouts; a great part whereof, the ſaid *Iames Maleverer* was inforced to pay; and in like manner the ſaid Sir *Humphrey Davenport* (together with the reſt of the then Barons of the ſaid Court of Exchequer) did order and direct ſuch and the like unjuſt and undue proceedings, and the ſaid proceedings were had and made accordingly againſt *Thomas Meyſer* Eſquire, and againſt ſeverall other perſons his Majeſties ſubjects in ſeverall parts of this Realme, to the utter undoing of many of them.

2. That a ſentence of Degradation being given by the high Commiſſioners of the Province of Yorke, againſt *Peter Smart*, Clerke, one of the Prebends of the Church of Durham, for a Sermon by him formerly preached againſt ſome Innovations in the Church of Durham, a triall was afterwards had, *viz.* in Auguſt in the ſeventh yeare of his ſaid Majeſties Reigne, before the ſaid Sir *Humphrey Davenport*, Knight, then one of the Judges of Aſſizes and *Niſi prius* for the County Palatine of Durham, concerning the Corps of the Prebend of the ſaid Mr. *Smart*, which was then pretended to bee void by the ſaid ſentence of Degradation, the ſaid Sir *Humphrey Davenport* contrary to his oath, and contrary to the Lawes of this Realme, and to the deſtruction of the ſaid Maſter *Smart*,

upon

upon reading the writ *de hæretico comburendo*, did publikely on the Bench, in the preſence of divers his Majeſties ſubjects then attending, declare his opinion to bee that the ſaid Prebends place was void, and gave directions to the Jury then at Barre to finde accordingly: and being then informed that although the ſaid Maſter *Smart* had beene dead or deprived, yet the profits of his Prebend had beene due to his Executors till the Michaelmas following, the ſaid Sir *Humphrey Davenport* then anſwered, that though the ſaid Maſter *Smart* was not dead, yet if he had had his deſert, he had beene dead long agoe, for hee deſerved to have beene hanged for the ſaid Sermon, and that he was as wicked a man as any lived in the world; call him no more Maſter *Smart*, but plain *Smart*. And when the ſaid Jury had found againſt the ſaid Mr *Smart*, the ſaid Sir *H. Davenport*, in ſcandall of his Majeſties Government and Juſtice, and of the proceedings of his Majeſties Judges, did publikely as aforeſaid ſpeak words to this effect; that the ſaid Jury had well done, and that the ſaid *Smart* had no remedy ſave by appeale to the King; and there he ſhould finde but cold comfort, for the King would not goe againſt his owne Prerogative, upon which the Judges and high Commiſſioners did depend, and therfore would not contradict one anothers Acts.

That the ſaid Sir *Humphrey Davenport* about the Month of November, *Anno Dom.* 1635. then being Lord chiefe Baron of his Majeſties Court of Exchequer, and having taken an oath for the due adminiſtration of Juſtice to his Majeſties Liege people, according to the Lawes and Statutes of the Realme, ſubſcribed his name to an opinion, *in hæc verba*: [I am of opinion, that as where the benefit doth more particularly redound to the good of the Ports, or Maritime parts (as in caſe of Pyracy or Depredations upon the Seas) there the charge hath beene, and may bee lawfully impoſed upon them, according to preſidents of former times; ſo where the good and ſafety of the Kingdome in generall is concerned, and the whole Kingdome in danger (of which his Majeſty is the onely Judge) there the charge of the defence ought to be borne by all the Realme in generall: this I hold agreeable both to Law and Reaſon.]

That in or about the Month of February *Anno Dom.* 1636. the ſaid Sir *Humphrey Davenport*, then being Lord chiefe Baron of the ſaid Court of Exchequer, ſubſcribed an extrajudiciall opinion in anſwer to queſtions in a letter from his Majeſty, *in hæc verba*:

'*Charles R.* When the good and ſafety of the Kingdome in gene-'rall is concerned, and the whole Kingdome in danger, whether may 'not the King by writ under the great Seale of England, command all 'the Subjects of this Kingdome, at their charge to provide and furniſh 'ſuch number of Ships with Men, Victuall, and Munition; and for

'ſuch time as he ſhall thinke fit, for the defence and ſafeguard of the 'Kingdome, from ſuch danger and perill; and by Law compell the 'doing thereof in caſe of refuſall, or refractorineſſe? And whether in 'ſuch caſe is not the King the ſole Judge, both of the danger, and when 'and how the ſame is to be prevented and avoided? *C. R.*

'May it pleaſe your moſt exellent Majeſtie, Wee have, according 'to your Majeſties command, ſeverally every man by himſelfe, and 'all of us together, taken into ſerious conſideration the Caſe & Que-'ſtion aſſigned by your Majeſtie, and incloſed in your Royall Let-'ter: And wee are of opinion, that when the good and ſafety of 'the Kingdome in generall is concerned, and the whole King-'dome in danger, your Majeſty may by writ under the great Seale 'of England, command all the Subjects of this your Kingdome, 'at their charge, to provide and furniſh ſuch number of Shippes, 'with Men, Victuall, and Munition; and for ſuch time as your Ma-'jeſtie ſhall thinke fit, for the defence and ſafeguard of the King-'dome, from ſuch danger and perill: And that by Law your Maje-'ſty may compell the doing thereof in caſe of refuſall, or refracto-'rineſſe. And wee are alſo of opinion, that in ſuch caſe, your Maje-'ſtie is the ſole Judge both of the danger, and when, and how 'the ſame is to be prevented and avoided. *Iohn Brampſton, Iohn Finch, 'Humphrey Davenport, Iohn Denham, Richard Hutton, William Iones, 'George Crooke, Thomas Trevor, George Vernon, Robert Berkley, Francis 'Crawley, Richard Weſton.*

That whereas an action of Battery was brought by one *Richard Legge* againſt *Robert Hoblins*, to which the ſaid *Hoblins* pleaded Juſtifi-cation *de ſon aſſault demeſme*, and the ſaid cauſe came to triall at the Aſſizes holden for the County of Glouceſter in Summer, 1636. be-fore the ſaid Sir *Humphrey Davenport*, then one of the Juſtices of Aſ-ſize and *Niſi Prius* for that County: At the ſaid triall the ſaid *Robert Hoblins* did begin to make proofe of his ſaid Juſtification, and pro-duced one *Robert Tily* a witneſſe in the cauſe, who proved upon oath, that the ſaid *Richard Legge* did make the firſt aſſault upon the ſaid *Ro-bert Hoblins*, and that the occaſion thereof was, that the ſaid *Richard Legge*, and others, came upon the Lands then in poſſeſſion of the ſaid *Hoblins*, and did take and drive away eighteen Cowes of the ſaid *Hoblins*, pretending they had a warrant from the Sheriffe to diſtreine the ſame for fourty ſhillings aſſeſſed upon the ſaid *Hoblins*, for Ship-money: And when the ſaid *Hoblins* (being preſent) endevoured to hinder the ſaid *Legge*, and others, from taking away his ſaid Cattell, the ſaid *Legge* ſtrooke the ſaid *Hobilins* with a ſtaffe, who after defen-ded himſelfe: That upon the opening of the matter the ſaid Sir *Humphrey Davenport*, would not ſuffer the ſaid *Hoblins* to produce any more

more witneſſes on his behalfe (though the ſayd *Hoblins* deſired that other of his witneſſes then preſent, and ſworne, might bee heard) nor his Councell to ſpeak for him; but being informed that the ſaid *Hoblins* (when Ship-money was demanded of him) anſwered, that hee would not pay the ſame, becauſe it was not granted by Parliament, the ſaid Sir *Humphrey Davenport* did then (openly in the hearing of a great number of his Majeſties liege people then aſſembled, and attending the Court) in great paſſion reprove the ſaid *Hollins*, and told him that the King was not to call a Parliament to give him ſatisfaction; and did then and there alſo falſly and of purpoſe, to prevent his Majeſties loving ſubjects from the due and ordinary courſe of Law, and contrary to his oath, and the Lawes of the Realme, publiſh, declare, and affirme, that it was adjudged by all the Judges of England, that Ship-money was due to the King, and directed the Jury ſworne in that cauſe, to finde a verdict for the ſaid *Richard Legge*: And the ſaid Jury did accordingly, and gave him twenty pound dammages. And the ſaid *Humphrey Davenport* did then alſo, without any cauſe, impriſon the ſaid *Robert Hoblins*, and bound him to the good behaviour.

That whereas in the moneth of April, *Decimo ſexto Caroli*, the Officers of the Cuſtome-houſe having ſeized a Shippe of one *Samuel Warner*, laden with Tobacco, being the goods of the ſaid *Warner*, the Bulk of the ſaid Ship not being broken, and no information exhibited for the King, according to the courſe of the Exchequer for any duty, the Barons were moved, that the ſaid Ship might bee reſtored to the Proprietors, giving ſecurity to pay ſuch duties as did belong to the King; But upon the allegation of the Kings Atturney, that there needed no information, becauſe there was no penalty, the ſaid Sir *Humphrey Davenport*, being then Lord chiefe Baron of his Majeſties Court of Exchequer, together with the reſt of the then Barons of the ſaid Court, did (contrary to his Oath, and contrary to the Lawes of this Realme) deny the reſtitution of the ſaid Shippe, unleſſe all the duties demanded by the Farmours of the Cuſtome-houſe were firſt paid.

Hereupon the ſaid *Warner* brought an action of *Trover* in the Office of Pleas in the Exchequer, againſt the ſaid Officers that ſeized his Shippe and Goods: Whereupon the Kings Atturney generall exhibited an information by Engliſh Bill in the Exchequer Chamber againſt the ſaid *Warner*; ſetting forth, that Cuſtomes and Subſidies upon Merchandize, were a great part of the Kings revenue, and payable to him: And that the ſaid Ship was ſeized for non-payment of the foreſayd duties; notwithſtanding the ſaid *Warner*, then Proprietor, proſecuted the Officers upon a ſuit at Law, and prayes that he may anſwer the ſaid information before any further proceedings bee had at Law.

There-

Thereupon the ſaid Sir *Humphrey Davenport*, together with the reſt of the then Barons of the ſaid Court of Exchequer, ordered that the Proprietor moving for the delivery of the ſaid goods, ſhould firſt anſwer to the Information: after which the ſaid *Warner* demurred to the ſaid Information, in regard no title for any certaine duty was ſet forth by the Information, which demurrer yet remaines not over-ruled; but the ſaid Sir *Humphrey Davenport*, with the ſaid other Barons, without over-ruling the demurrer, ordered, becauſe *Warner* had put in a demurrer and not anſwered to the ſaid Information, that he ſhould not proceede upon the action of *Trover*. The proprietor being thus prevented of his remedy by Action at Law, ſued forth a *Replevin*, and upon pretence of viewing the ſaid goods, cauſed them to bee brought forth of a Cellar, hired by a Deputy to the Farmours to that uſe; and being brought forth, they were taken by the Sheriffs of London, by vertue of the ſaid *Replevin*; and upon oath made of the manner of the taking, as aforeſaid, before the Barons, and upon view of the Preſident inrolls the caſe; the ſaid Sir *Hemphrey Davenport*, with the ſaid other Barons, adjudged, that the ſaid goods were not Repleviſable, and granted an Injunction to maintaine poſſeſſion of them as they were before.

And the ſaid houſe of Commons by proteſtation, ſaving to themſelves only the liberties of exhibiting at any time hereafter, any other accuſation or impeachment againſt the ſaid Sir *H. Davenport*, & alſo of replying to the anſwer that he the ſaid Sr *Humphrey Davenport*, ſhal make unto the ſaid Articles, or any of them, or of offering proofe of the premiſſes, or any of their impeachments or accuſations that ſhall bee exhibited by them, as the Caſe ſhall (according to the courſe of Parliaments) require, doe pray that the ſaid Sir *Humphrey Davenport*, Lord chiefe Baron of his Majeſties Court of Exchequer, may bee put to anſwer to all and every the premiſſes; and that ſuch proceedings, examinations, trials and judgements, may be upon every of them had and uſed, as is agreeable to Law and Juſtice.

Articles

Articles of the House of Commons in the name of themselves, and of all the Commons of England, *against Sir* Thomas Trevor *Knight, one of the Barons of his Majesties Court of Exchequer, impeaching him as followeth.*

1. THat in or about November, 4. *Car.* divers goods and merchandizes (whereof *John Rolls*, *George Moore*, and other Merchants of London were Proprietors) being seised and conveyed into certaine Store-houses at the Custome-house, by Sir *Iohn Worstenham*, *Abraham Dawes*, and others the Farmors and Officers of the Customes, and by them there detained; because the said Proprietors refused to pay the Subsidie of *Tonnage* and *Poundage*, pretended to be due, and demanded by the said Farmours and Officers on his Majesties behalfe for the said Merchandizes, whereas no such subsidy or duty of *Tonnage* or *Poundage* was due or payable for the same, no Subsidy of *Tonnage*, and *Poundage* having beene granted by Parliament to his Majesty. The said *Iohn Rolls*, and other the Proprietors of the said goods, having by reason of such unlawfull seisure and detainer, as aforesaid, sued forth one or more writ or writs of *Replevin*, directed to the Sheriffes of London (being the proper remedy provided by the Law to regaine the possession of goods taken and with-held from the owners contrary to Law) the said Sir *Thomas Trevor* Knight, then, and yet one of the Barons of his Majesties said Court of Exchequer, together with the rest of the then Barons of the said Court, upon information to them given, that the said Proprietors, or some of them, had sued forth, and did prosecute such writ, or writs of *Replevin* for the delivery of the said goods, did order an Injunction under Seale of the said Court to issue forth, directed to the Sheriffes of London, commanding them thereby not to execute the said writ or writs of *Replevin*, or any like writ thereafter to be sued forth by any person or persons for the delivery of any goods in the like nature detained: And did declare and order publiquely in the said Court of Exchequer, that the said goods by Law were not Replevisable, alleaging for cause that the said goods were in the Kings owne possession, whereas the same did not judicially appeare to them, and they did well know, that the said goods were at that time in the possession of the Farmours and Lessees of the said Customes, and no lawfull cause to them appearing or suggested of the taking and detaining of the said goods: which Injunction and Declaration so granted and made, were and are against the Lawes of the Realme, and in subversion of the common right, and remedy of the Subject for regaining the possession of his goods, being taken and with-holden from him without lawfull cause.

That the Sheriffes of London for the time being ſerved with the ſaid Injunction, did forbeare to execute the ſaid writ or writs, of *Replevin*: By meanes whereof the ſaid goods continued ſo detained as aforeſaid, contrary to Law, from the ſaid moneth of November, untill the moneth of June next following.

That the ſaid *Thomas Trevor*, and other the Barons aforeſaid, knowing the ſaid goods to be unlawfully ſeized and detained for the pretended duties and Subſidie of *Tonnage* and *Poundage*, whereas no ſuch were payble by Law, did from time to time delay the reſpective Proprietors from having reſtitution of their ſaid goods, being often in Court moved therein, with intention thereby to force the ſaid Proprietors (by wanting their goods, and the uſe thereof) to pay all ſuch ſummes as the ſaid Officers of the Cuſtomes pretended to be due to his Majeſty.

That to the end aforeſaid the ſaid Sir *Thomas Trevor*, and the ſaid other Barons refuſed to accept of any ſecurity to be given by the ſaid Proprietors, upon reſtitution had of their goods, for payment of all ſuch duties as ſhould be made appeare to be made payable to his Majeſty in ſuch manner as the ſaid Barons ſhould direct. That the ſaid Sir *Thomas Trevor*, and other the Barons aforeſaid, knowing that the ſaid ſummes demanded on his Majeſties behalfe, by the ſaid officers of the Cuſtomes not to be due by Law, did refuſe to order reſtitution of any part of thoſe goods, (ſo detained as aforeſaid) to the Proprietors thereof, unleſſe the ſaid Proprietors would depoſite all ſuch ſummes of money as the ſaid Officers reſpectively demanded of them for pretended duties to his Majeſty; and the ſaid Proprietors refuſing to depoſite the ſaid ſummes demanded, the ſaid Sir *Thomas Trevor*, and other the Barons aforeſaid, did order the ſaid Officers, to detaine double the value of the ſummes by them demanded for pretended duties to his Majeſty, and to reſtore the reſidue: The ſaid Sir *Thomas Trevor*, and other the ſaid Barons, then knowing that the pretended ſummes demanded by the ſaid Officers, were not by Law due or payable to his Majeſty.

2. That in or about January 4. *Car.* the ſaid Officers having ſeiſed ſeverall Merchandize of the goods of *Richard Chambers* Merchant, upon the pretences aforeſaid, did detaine the ſame; and the ſaid *Chambers* proſecuting by plaint to have his ſaid goods replevied, the ſaid Sir *Thomas Trevor*, together with the ſaid other Barons, did in like manner, in the ſaid Court of Exchequer, declare the ſaid *Chambers* his goods not to be repleviſable, and enjoyned the Sheriffes of London to proceed no further therein, no cauſe to them appearing of ſuch ſeiſure or detainer. And the ſaid Sir *Thomas Trevor*, and other the Barons of the ſaid Court, refuſed to order the delivery of the ſaid *Chambers* his goods, upon good ſecurity offered by him

to

to pay all ſuch ſummes as ſhould be made appeare to be due, and for which the ſaid goods were pretended to be detained, and the ſaid Barons being often moved in Court; therein, did refuſe to order reſtitution of any part of the ſaid *Chambers* goods, untill the 23. of November, 5. *Carol*, and then ordered that the ſaid Officers ſhould detaine in their hands double the value of the ſummes by them demanded, and reſtitution of the reſidue to be made to the ſaid *Chambers*, no cauſe of detaining any part of the ſaid goods to them in any wiſe appearing.

3. That whereas in the moneth of October, in the fourth yeere of his ſaid Majeſties reigne, the Farmers and Officers of the Cuſtome-houſe having ſeiſed great quantities of Currants, being the goods of *Samuel Vaſſall* merchant, and having conveyed them into certaine ſtore houſes at the Cuſtome houſe and detained them, becauſe the ſaid *Samuel Vaſſall* refuſed to pay an impoſition of five ſhillings ſix pence upon every hundred weight of the ſaid currants pretended to be due, and demanded by the ſaid Farmours and Officers on his Majeſties behalfe for the ſaid currants, whereas no ſuch impoſition was due or payable for the ſame, but the ſaid impoſition was and is againſt the Lawes of this Realme.

And whereas alſo in Michaelmas Terme, in the ſaid fourth yeere of his Majeſties raigne, his Majeſties then Attorney Generall exhibited an information by Engliſh Bill in the Exchequer-chamber againſt the ſaid *Samuel Voſſall*, ſetting forth that King *Iames*, by his Letters Patents dated the 3. of November in the ſecond yeere of his Raigne, did command that the ſaid impoſition of 5. s. 6. d. upon every hundred weight of Currants ſhould be demanded and received: And that his Majeſtie that now is, by his Letters Patents dated the ſix and twentieth day of July, in the ſecond year of his Raigne, did, by adviſe of his Privy Councell, declare his will and pleaſure to be, that Subſidies, Cuſtomes, and impoſts ſhould be levied in ſuch manner as they were levied in the time of King *Iames*; and the ſame, and the Farmers thereof to continue untill it might receive a ſetling by Parliament, and commanded the levying and receiving the ſame accordingly; and that the ſaid *Samuel Vaſſall* before the firſt day of October then laſt paſt before the ſaid Information exhibited, did bring into the port of London in ſhips, foure thouſand ſix hundred thirty eight hundred weight of currants, and that *Richard Carmarthen*, Surveyour in the ſaid port of London, the ſaid firſt day of October, demanded of the ſaid *Samuel Vaſſall* the ſaid impoſition of five ſhillings ſixe pence for every hundred weight of the ſaid currants, and that the ſaid *Samuel Vaſſall* refuſed to pay the ſaid impoſition, and unjuſtly detained it from the King: To which Information the ſaid *Samuel Vaſſall* appeared, and pleaded the Statute of *Magna Charta*, and the

Statute of *De Tallagio non concedendo*, and that he was a Subject born under the Kings Allegeance, and a Merchant of *London* using that trade, and that the ſaid ſumme of five ſhillings ſix pence upon every hundred weight of Currants, was and is *malum ſanctum*, and not *antiqua ſeu recta conſuetudo*, and that it was impoſed without aſſent of Parliament: to which Plea the ſaid Atturney Generall demurred in Law, and the ſaid *Samuel Vaſſall* joyned in demurrer with him.

That the ſaid Sir *Thomas Trevor*, being then and yet one of the Barons of his Majeſties Court of Exchequer, together with the reſt of the then Barons of the ſaid Court, knowing the ſaid Currants to be unlawfully ſeiſed and detained for the pretended duty of five ſhillings ſix pence impoſition upon every hundred weight of the ſaid Currants (whereas no ſuch impoſition was payable by Law) did from time to time delay the ſaid *Samuel Vaſſall* from having reſtitution of his ſaid goods, being often in Court moved therein, with intention thereby to force the ſaid *Samuel Vaſſall* (by wanting the ſaid goods, and the uſe thereof) to pay all ſuch ſummes as the ſaid Officers of the Cuſtome, pretended to be due to his Majeſtie, and impriſoned the ſaid *Samuel Vaſſall*, becauſe he refuſed to pay ſuch ſummes of money as were demanded of him for the ſaid unlawfull impoſition, and that in Trinity Terme in the ſixth yeare of his Majeſties raigne, the ſaid caſe comming to be argued in open Court upon the demurrer, the ſaid Sir *Thomas Trevor*, contrary to his oath, and contrary to the Lawes of this Realme, and to the great impoveriſhment of the ſaid *Samuel Vaſſall*, did (together with the reſt of the then Barons of the ſaid Court of Exchequer) give his opinion and judgement upon the ſaid information for the King, and againſt the ſaid *Samuel Vaſſall*, and by ſeverall Orders for that purpoſe, did continue the poſſeſſion of the ſaid goods in the King, and the ſaid *Samuel Vaſſall* could never obtaine any reſtitution at all of the ſaid Currants.

4 Whereas it was commanded to the Sheriffe of the County of Yorke, by Writ under the Seale of his Majeſties Court of Exchequer, dated the ſixteenth day of May in the ſeventh yeare of his Majeſties Raigne that now is, That he ſhould diſtraine *Iames Malevever* Eſquire, to appeare before the Barons of his Majeſties ſaid Court of Exchequer, in the Octaves of the holy Trinity then next following, to make fine to the King for his treſpaſſe and contempt in not comming to the preſence of the King before the 31. day of January in the firſt yeare of his ſaid Majeſties Reigne, to take upon him the order of Knighthood, according to the forme of a Proclamation in that behalfe formerly made; at which day of the ſaid Octaves of the holy Trinity the ſaid *Iames Malevever* did appeare, and pleaded to the

ſaid

ſaid writ, that although his ſaid Majeſty, the ſaid 31. day of January, and for three dayes next before, the ſaid 31. day of January was reſident and remaining at his Palace at White-hall in the County of Middleſex, and that the ſaid *Iames Maleverer*, the ſaid one and thirtieth day of January, and three dayes next before the ſaid one and thirtieth day of January, was reſident and remaining at Ancliffe in the ſaid County of Yorke, which is diſtant from the ſaid Palace of White-hall the ſpace of one hundred and foureſcore miles; and that the ſaid *Iames Maleverer* the ſaid one and thirtieth day of January aforeſaid or at any time before, had no lands or rents in his owne hands, or in the hands of Feoffees to his uſes, out of the ſaid County of Yorke, and that that part of the ſaid County of Yorke, which is neereſt to the ſaid Palace of White-hall, the ſpace of one hundred and thirty miles, and that no Proclamation by vertue of any writ or Proclamation, for the appearance of any perſons whatſoever, to take the ſaid order of Knighthood, was made in any part of the ſaid County of Yorke before the thirtieth day of January in the ſaid firſt yeare of his Majeſties reigne, by reaſon whereof the ſaid *Iames Maleverer* could not perſonally come to the preſence of his ſaid Majeſtie, to take the ſaid order of Knighthood, before the ſaid one and thirtieth day of January in the ſaid firſt yeare of his ſaid Majeſties reigne, yet the ſaid *Iames Maleverer* for his fine in the premiſes, did humbly ſubmit himſelfe to the ſaid Court, and demanded to be diſcharged of the ſaid iſſues, returned and impoſed upon him by reaſon of the premiſes; yet notwithſtanding the ſaid Plea and ſubmiſſion of the ſaid *Iames Maleverer*, and after the ſame was made as aforeſaid, and entred upon Record in his Majeſties ſaid Court of Exchequer, the ſaid Sir *Thomas Trevor* (being then one of the Barons of his Majeſties ſaid Court of Exchequer) contrary to his oath, and contrary to the Lawes of this Realme, and to the great impoveriſhing of the ſaid *Iames Maleverer*, did (together with the reſt of the then Barons of the ſaid Court) refuſe to impoſe any fine whatſoever upon the ſaid *Iames Maleverer*, and told him that the ſaid Court had no power to fine him, but that he might compound with certaine Commiſſioners for that purpoſe appointed. And did further order and direct ſeverall other writs of *Diſtringas*, to iſſue forth of his Majeſties ſaid Court of Exchequer, under the Seale of the ſaid Court, directed to the ſeverall high Sheriffes of the ſaid County of Yorke, whereby the ſaid Sheriffes were commanded further to diſtraine the ſaid *Iames Maleverer* to appeare, as aforeſaid: upon which ſaid writs of *Diſtringas*, ſeverall great and exceſſive iſſues were returned upon the lands of the ſaid *Iames Maleverer*, amounting to the ſumme of two thouſand pounds or thereabouts, a great part whereof, the ſaid *Iames Maleverer* was inforced to pay; and in like manner the ſaid Sir *Thomas Trevor* (together with the reſt of the then Barons of the

ſaid Court of Exchequer) did order and direct ſuch and the like proceedings, and the ſaid proceedings were had and made accordingly againſt *Thomas Moyſer* Eſquire, and againſt ſeverall other perſons his Majeſties ſubjects in ſeverall parts of this Kingdome, to the utter undoing of many of them.

5 That he the ſaid Sir *Thomas Trevor*, about the moneth of November, *Anno Domini*, 1635. then being one of the Barons of his Majeſties Court of Exchequer, and having taken an oath for the due adminiſtration of Juſtice to his Majeſties liege people, according to the Lawes and Statutes of this Realme, ſubſcribed his name to an opinion, *in hæc verba*: I am of opinion, &c. *ut ſupra in Baron Davenports Charge, pag.* 30.

6 That in or about the moneth of February, *Anno Domin.* 1636. (then being one of the Barons of the ſaid Court of Exchequer) he ſubſcribed an extrajudiciall opinion in anſwer to queſtions in a letter from his Majeſty, *in hæc verba*.

'*Charles R.* When the good and ſafety of the Kingdome in generall 'is concerned, &c. *ut ſupra loco citato*, and ſubſcribed *ut priùs*.

7 That the ſaid Sir *Thomas Trevor* (being then one of the Barons of his Majeſties Court of Exchequer) did deliver his opinion, and judgement in the Exchequer chamber againſt *Iohn Hampden* Eſquire, in the caſe of Ship-money; That he the ſaid *Iohn Hampden* upon the matter and ſubſtance of the caſe, was chargeable with the money then in queſtion: a copie of which proceedings and judgement, the Commons in this preſent Parliament have already delivered to your Lordſhippes.

8 That whereas in the moneth of April, 16. *Car.* the Officers of the Cuſtome-houſe having ſeiſed a ſhip of one *Samuel Warner's* laden with Tobacco, being the goods of the ſaid *Warner*, the Bulke of the ſaid Ship not being broken, and no information exhibited for the King, according to the courſe of the Exchequer, for any duty, the Barons were moved that the ſaid Ship might be reſtored to the Proprietor, giving ſecurity to pay ſuch duties as did belong to the King; But upon the allegation of the Kings Atturney that there needed no information, becauſe there was no penalty, the ſaid Sir *Thomas Trevor*, (being then one of the Barons of his Maieſties ſaid Court of Exchequer, together with the reſt of the then Barons of the ſaid Court) did (contrary to his oath, and contrary to the Lawes of this Realme) deny the reſtitution of the ſaid Ship, unleſſe all the duties demanded by the Farmors of the Cuſtome-houſe were firſt paid. Hereupon the ſaid *Warner* brought an action of *Trover* in the office of Pleas in the Exchequer againſt the ſaid Officers that ſeiſed his Ship and goods: whereupon the Kings Atturney generall exhibited an information by Engliſh Bill in the Exchequer chamber againſt the ſaid

Warner;

Warner; ſetting forth, that cuſtomes and Subſidies upon Merchandiſe were a great part of the Kings revenue, and payable to him; and that the ſaid Ship was ſeiſed for non-payment of the aforeſaid duties, notwithſtanding the ſaid *Warner* then Proprietor, proſecuted the Officers upon a ſuit at Law, and prayes that he may anſwer the ſaid Information before any further proceedings be had at Law: Thereupthe ſaid Sir *Thomas Trevor*, (together with the reſt of the then Barons of the ſaid Court of Exchequer,) ordered, that the Proprietor moving for delivery of the ſaid goods, ſhould firſt anſwer to the ſaid Information; after which the ſaid *Warner* demurred to the ſaid Information, in regard no title for any certaine duty was ſet forth by the Information, which demurrer yet remaines not over-ruled; but the ſaid Sir *Thomas Trevor*, with the ſaid other Barons, (without over-ruling the demurrer) ordered, (becauſe *Warner* had put in a demurrer and not anſwered to the ſaid Information, that he ſhould not proceed upon the action of Trover. The Proprietor being thus prevented of his remedy by action at Law, ſued forth a Replevin, and (upon pretence of viewing the ſaid goods) cauſed them to be brought forth of a Cellar, hired by a deputie of the Farmors to that uſe; and being brought forth, they were taken by the Sheriffe of London, by vertue of the ſaid Replevin; and upon oath made of the manner of the taking, as aforeſaid, before the Barons, and upon view of the Preſident, inrolls his caſe; the ſaid Sir *Thomas Trevor*, with the ſaid other Barons, adjudged, that the ſaid goods were not Repleviſable, and granted an Iniunction to maintaine the poſſeſſion of them as they were before.

And the ſaid houſe of Commons by proteſtation, ſaving to themſelves only the liberties of exhibiting at any time hereafter any other accuſation or impeachment againſt the ſaid Sir *Thomas Trevor*, and alſo of replying to the anſwer that he the ſaid Sir *Thomas Trevor* ſhall make unto the ſaid Articles, or any of them, or of offering proof of the premiſes, or any of their impeachments or accuſations that ſhall be exhibited by them, as the caſe ſhall (according to the courſe of Parliaments) require, doe pray that the ſaid Sir *Thomas Trevor*, one of the Barons of his Maieſties Court of Exchequer, may be put to anſwer to all and every the premiſes; and that ſuch proceedings, examinations, tryals, and judgements may be upon every of them had and uſed, as is agreeable to Law and Juſtice.

FINIS.